

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**July 13, 2004**

## DIVISION TWO

B166279 Agbabian (Not for Publication)

V.

TST Colorado Avenue, L.L.C., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Nott, J.

We concur: Boren, P.J.

Doi Todd, J.

B164376 Copelco Capital, Inc. (Not for Publication)

V.

Johnson et al.

The judgment appealed from is affirmed. Respondents shall recover their costs of appeal from appellant.

Nott, Acting P.J.

We concur:   Doi Todd, J.

Ashmann-Gerst, J.

B170426 People (Not for Publication)

V.

Serrano

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Ashmann-Gerst, J.

## DIVISION TWO (Continued)

[illegible]

The judgment is modified to provide a sentence of four years for appellant's robbery conviction and an aggregate sentence of 14 years and is otherwise affirmed. The trial court is directed to amend the abstract of judgment to so reflect.

Nott, J.

We concur: Boren, P.J.  
Ashmann-Gerst, J.

B152202 Vasquez (Not for Publication)  
v.  
Southern Pacific Transportation Company, et al.

The \$7.7 million judgment rendered against the Railroad is reversed. Judgment on the complaint shall be entered for the Railroad. Additionally, the dismissal of the statutory contribution claim in the cross-complaint is reversed and remanded for trial. In all other respects, the judgment is affirmed. The Railroad shall recover its costs on appeal.

Ashmann-Gerst, J.

We concur: Boren, P.J.  
Doi Todd, J.

B168020 People v. Baker (Not for Publication)

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.  
Doi Todd, J.

July 13, 2004 (Continued)

DIVISION TWO (Continued)

B165314      Serra Canyon Company, LTD  
                  v.  
                  California Coastal Commission, et al.

Filed order certifying opinion for publication.

DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

Each of the following:

B175832 Children and Family Services v. Sencere P.  
B168521 People v. Perez  
B164925 People v. Pritchett  
B169151 People v. Peterson  
B168576 People v. Hernandez  
B169995 People v. Lane, et al.  
B168249 People v. Lucas  
B175520 Sharon S. v. S.C.L.A.

Argument waived, cause submitted.

B166664      Morales-Navarro et al.  
                  v.  
                  Gregory et al.

Merits:

Argument previously waived by appellants. Bruce Sample appearing for the respondents waives argument. Submission deferred.

DIVISION THREE (Continued)

B167554     People  
              v.  
              Burns

Merits:  
Argued by Kathleen Redmond for appellant and by Peggie Bradford Tarwater, deputy attorney general for respondent. Cause submitted.

B166710     Chen  
              v.  
              Su et al.

Merits:  
Argued by Stephen J. Kennedy for appellant Johnson Su and by Richard Ackerman for respondent. Cause submitted.

B174411     D'Orsay International Partners  
              v.  
              Superior Court, Los Angeles County  
              (Jeffrey C. Stone, Inc., dba, Summit Builders, r.p.i.)

Merits:  
Argued by Anthony J. Taketa for petitioner and by Sam L. McDermott for real party in interest. Cause submitted.

B160115     Gordon, et al.  
              v.  
              20th Century Insurance, et al.

Merits:  
Argued by Ave Buchwald for appellants and by Robert H. Wright for respondents. Cause submitted.

DIVISION THREE (Continued)

B170797      Building Permit Consultants, Inc.  
                 v.  
                 Mazur, et al.

Merits:

Argued by James S. Link for appellant and by Benjamin Shatz, Jeffrey Leist, and Jeffrey A. Evans for respondents. Ryan C. Tuley joins in argument presented on behalf of respondents. Cause submitted.

Court recessed at 11:22 a.m.

Court reconvened at 1:30 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Valorie Gray, Deputy Clerk.

B172714      Children and Family Services  
                 v.  
                 Grace L.

Merits:

Argued by Grace L., in propria persona for appellant and by Judith A. Luby for respondent. Cause submitted.

B173716      LA. County Metropolitan Transportation Authority  
                 v.  
                 Superior Court, Los Angeles County  
                 (Lyons, r.p.i.)

Merits:

Argued by John Allen for petitioner and by Carol L. Newman for real party in interest. Cause submitted.

July 13, 2004 (Continued)

### DIVISION THREE (Continued)

B166522 Escobar, et al.  
v.  
University of Southern California

Merits:  
Argued by Donna Silver for appellant and by Patrick E. Stockalper for respondent. Cause submitted.

Court adjourned at 2:40 p.m.

B172204      People                                  (Not for Publication)  
v.  
Sidney Mahoney

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

## DIVISION FOUR

B162065 Kraut, Lesley (Not for Publication)  
B164780 v.  
Boden, Robert,  
Kraut, Nate G.

The appeal from the issues relating to the order of April 5, 2002, is dismissed as untimely. The order of December 6, 2002, is affirmed. As to both orders challenged on appeal, costs on appeal are awarded to respondent Boden.

Epstein, Acting P.J.

We concur: Hastings, J.  
Curry, J.

July 13, 2004 (Continued)

## DIVISION FOUR (Continued)

[illegible]

The judgment (order confirming arbitration award) is affirmed. Defendants shall have their costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.  
Curry, J.

B174048      Ursula B.      (Not for Publication)  
v.  
Superior Court, Los Angeles County  
(L.A. County Department of Children and Family Services, r.p.i.)

The writ is denied. The stay ordered by this court on April 22, 2004 is dissolved.

Epstein, Acting P.J.

We concur: Hastings, J.  
Curry, J.

B166216      Blue      (Not for Publication)  
v.  
Equitable Plaza

The judgment is reversed. Appellant is to have their costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.  
Curry, J.

DIVISION FOUR (Continued)

B169249      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Thea K.

The judgment is affirmed.

Curry, J.

We concur:   Epstein, Acting P.J.  
                 Hastings, J.

B169906      Eisendrath, John      (Not for Publication)  
v.  
Eisendrath Rogers, Kathryn

The order is reversed, and the matter is remanded for further proceedings in accordance with this opinion. The parties are to bear their own costs.

Curry, J.

We concur:   Epstein, Acting P.J.  
                 Hastings, J.

B166266      People      (Not for Publication)  
v.  
Patrick D.

The judgment is affirmed.

Curry, J.

We concur:   Epstein, Acting P.J.  
                 Hastings, J.



July 13, 2004 (Continued)

## DIVISION FOUR (Continued)

B160612 Saks (Not for Publication)  
B162189 v.  
Charity Mission Baptist Church

The trial courts postjudgment order awarding attorney fees and costs to the Church is modified as follows: (1) the \$356,896.25 in attorney fees awarded are reduced to \$95,950 to \$260,946.25; (2) the \$13,448.34 in appellate costs awarded are reduced to \$9,600 to \$3,848; (3) trial costs in the amount of \$3,260.37 are added. The order is otherwise affirmed. For purposes of this appeal, both parties are to bear their own costs.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

DIVISION FIVE

B163436 Robert Harris (Not for Publication)  
v.  
Deborah Ingram Harper as Trustee

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

We concur:   Armstrong, J.  
                       Mosk, J.

B169792      Mike K.      (Certified for Partial Publication)  
v.  
Barbara K. et al.

The appeal is dismissed. Respondent's motion for sanctions is denied.

Turner, P.J.

We concur:   Armstrong, J.  
                      Mosk, J.

## DIVISION FIVE (Continued)

B169044      People                                  (Not for Publication)  
v.  
Valdemar Pablo Solario

The judgment is modified to reflect that defendant is to receive 614 days of presentence credits, consisting of 534 days of actual credit and 80 days of conduct credit. As modified, the judgment is affirmed. The superior court clerk is directed to prepare an amended abstract of judgment and forward it to the Department of Corrections.

Turner, P.J.

We concur: Grignon, J.  
Mosk, J.

B169643 People (Not for Publication)  
v.  
Jose Jurado

The judgment is affirmed.

Grignon, J.

We concur:   Turner, P.J.  
                      Mosk, J.

B171483 People (Not for Publication)  
v.  
Paul Germansen

The appeal is dismissed.

Turner, P.J.

We concur:   Armstrong, J.  
                      Mosk, J.

July 13, 2004 (Continued)

## DIVISION FIVE (Continued)

B171641 People (Not for Publication)  
v.  
Ray Haley

The judgment is affirmed.

Turner, P.J.

We concur:    Armstrong, J.  
                         Mosk, J.

B174300 Michael N. (Not for Publication)  
v.  
S.C.L.A.  
Children and Family Services

The petition is denied. Pursuant to California Rules of Court, rule 24(b)(3), this opinion is made final forthwith as to this court.

Grignon, J.

We concur:   Turner, P.J.  
                      Mosk, J.

B168666 People (Not for Publication)  
v.  
Levar Emerson Jones

The conviction is affirmed, and the matter remanded to the trial court so that that court may exercise its discretion on the sentence on the probation violation, consistent with this opinion.

Armstrong, J.

We concur: Grignon, Acting P.J.  
Mosk, J.

July 13, 2004 (Continued)

DIVISION FIVE (Continued)

B170523      Los Angeles County, D.C.S.      (Not for Publication)

v.

Anthony L.,

In re: Angelina L., et al.

The judgment is affirmed.

Armstrong, J.

We concur:    Grignon, Acting P.J.

                 Mosk, J.

B169922      People      (Not for Publication)

v.

Michael Rayne Friendly

The judgment is affirmed.

Armstrong, J.

We concur:    Turner, P.J.

                 Grignon, J.

B168236      People      (Not for Publication)

v.

Marlo J. Hempstead

The judgment is affirmed as modified. The abstract of judgment shall be amended to reflect 414 days of custody credits. The clerk of the superior court shall forward the amended abstract of judgment of Department of Corrections.

Mosk, J.

We concur:    Turner, P.J.

                 Grignon, J.

July 13, 2004 (Continued)

## DIVISION FIVE (Continued)

B173891 Coast Plaza Doctors Hospital  
v.  
Martin Perez

Filed order dismissing appeal on court's own motion. Appeal (notice of appeal filed March 9, 2004) dismissed.

DIVISION SIX

B173135      People      (Not for Publication)  
v.  
Sowell

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Perren, J.

B165896      People  
v.  
Hoge

Filed order denying petition for rehearing.

B165687 People  
v.  
Merchand

Filed order denying petition for rehearing.

DIVISION SEVEN

B172439      Los Angeles County, D.C.S.      (Not for Publication)

v.

Darcie A.,

In re B.Q.

The judgment is affirmed.

Zelon, J.

We concur:   Johnson, Acting P.J.

Woods, J.

B169160      People      (Not for Publication)

v.

McDonald

The judgment is affirmed.

Perluss, P.J.

We concur:   Woods, J.

Zelon, J.

B170200      People      (Not for Publication)

v.

Kitata R.

Neither the July 31, 2003 order sustaining the second section 602 petition nor the orders for deferred entry of judgment and probation are appealable. (Welf. & Inst. Code, § 800; *People v. Mazurette* (2001) 24 Cal.4th 787, 794.) Accordingly, the appeal is dismissed.

Perluss, P.J.

We concur:   Johnson, J.

Zelon, J.

DIVISION SEVEN (Continued)

B171535      Los Angeles County, D.C.S.      (Not for Publication)  
                 v.  
                 Mercedes T.,  
                 In re Jacob T.

The order is affirmed.

Zelon, J.

We concur:    Perluss, P.J.  
                 Woods, J.

B165908      People  
                 v.  
                 Ayers

Filed order granting petition for rehearing.

DIVISION EIGHT

B171741      Berg      (Certified for Publication)  
                 v.  
                 Darden, D.D.S.

The order denying Berg's motion to recover expert witness expenses, litigation costs and prejudgment interest under Code of Civil Procedure section 998 and Civil Code section 3291 is reversed. The matter is remanded and the trial court directed to conduct a hearing on the merits of that motion, and determine whether Berg's statutory offer of compromise was reasonable and made in good faith, consistent with this opinion and the requirements of Code of Civil Procedure section 998. Berg is awarded her costs of appeal.

Boland, J.

We concur:    Cooper, P.J.  
                 Rubin, J.